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COMMISSION ON HUMAN RIGHTS

Forty-eighth session

SUMMARY RECORD OF THE 50th MEETING
(SECOND PART*)

Held at the Palais des Nations, Geneva,
on Monday, 2 March 1992, at 3 p.m.

Chairman:	Mr. ENNACEUR	(Tunisia)
later:	Mr. NASSERI	(Islamic Republic of Iran)
later:	Mr. SOLT	(Hungary)

CONTENTS

Advisory services in the field of human rights (continued)

Election of members of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (continued)

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* The summary record of the first part of the meeting appears as document E/CN.4/1992/SR.50.

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ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 19) (continued) (E/CN.4/1992/49; E/CN.4/1992/50 and Add.1; E/CN.4/1992/51; E/CN.4/1992/69; E/CN.4/1992/NGO/20; E/CN.4/1992/NGO/36)

1. Mr. OYARCE (Chile), underlining the central role played by advisory services and technical assistance activities in the protection and promotion of human rights, said that instruction in civil, political, economic, social and cultural rights was of supreme value as a means of instilling democratic values in society. The draft resolution on the strengthening of the rule of law, submitted by Brazil, with Chile as a co-sponsor, was especially relevant in that connection.

2. It was generally agreed that advisory services were useful, yet it was disturbing that they were commonly viewed simply as a way of reflecting some political concern for a particular situation. The fact that a specific case was discussed under item 19 should be indicative of the determination of the international community and of individual countries to secure, through those services, full and complete observance of human rights under specific circumstances. It was rightly pointed out in paragraph 9 of document E/CN.4/1992/49 that the provision of advisory services and technical assistance in no way reduced a government's responsibility for the free exercise and promotion of human rights and fundamental freedoms. Furthermore, cooperation in human rights matters should be seen as a component of preventive diplomacy.

3. Numerous human rights instruments, such as the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child, included a reference to assistance as a means of promoting the application and observance of those rights; similar sentiments had been expressed by various bodies, including the Human Rights Committee and the Committee on the Elimination of Racial Discrimination. United Nations action in that respect had a dual configuration: assistance financed from the regular budget, and assistance financed from the Voluntary Fund for Technical Cooperation. The importance and relevance of advisory services and technical assistance were reflected in the increasing numbers of requests for such aid received from Governments. Among the activities financed under the regular budget, the Chilean delegation particularly appreciated the various training activities, including the internship programme. The activities of the Centre for Human Rights, although limited by budgetary constraints, were commendable, but there was a danger that the provision of services as a matter of some urgency might drain resources away from the Centre's more routine, but equally necessary, activities. Further thought might be given in the fellowship programme to the possibility of devising common courses with broad participation, and also more specialized activities which addressed the problems of specific regions and of especially vulnerable sectors of society, including indigenous populations. Greater benefit might also be derived from, for example, follow-up reports prepared by fellows on completion of the courses, containing their comments. Useful contributions for other countries could emerge from that process of evaluation.

4. Activities connected with the Voluntary Fund for Technical Cooperation in the Field of Human Rights should be seen as complementary to the advisory services already provided under the auspices of the Centre for Human Rights.

The Fund had rendered appreciable assistance to Governments in their democratization efforts, notably in the fields of institutional and legal reform and in educational activities. An important feature of the Fund was that it left the way open for Governments themselves to draw up their own programmes of activities in accordance with their own priorities.

5. His Government warmly endorsed the idea of setting up national and regional centres for documentation, education, training and advisory services; it was interested in designing a project with those components and would welcome the views of other contributors to the Voluntary Fund. Broad cooperation within the United Nations system was also desirable, and experience showed that UNDP, the World Bank and the specialized agencies, among others, could contribute usefully to the preparation of programmes whereby the promotion of human rights might be incorporated in the overall policies and strategies of the United Nations.

6. In the advancement of human rights, the administration of justice had a particularly important place, and he set great store by the Latin-American Seminar on Democracy and Economic and Social Development recently held in Santiago with the participation of experts and representatives of Governments. The Seminar which had addressed three crucial issues: education, training in democracy and human rights, and the strengthening of the administration of justice and the need to revitalize the institutional infrastructure for the rule of law. The development of human rights standards, and the will of States to accede to international instruments in that domain and obtain enhanced awareness of and effective participation in human rights activities called for a renewed spirit of cooperation that seemed increasingly possible to achieve in the current international climate.

7. Mr. Nasseri (Islamic Republic of Iran) took the Chair.

8. Mr. DRISS (Tunisia) suggested that, at future sessions, in order to facilitate the participation of delegations which could allow to spend only a short time in Geneva, items 11 and 19 might be examined together, since the question of advisory services was closely bound up with the further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission.

9. Speaking both as a member of the Tunisian delegation and as President of Tunisia's Higher Committee for Human Rights and Fundamental Freedoms, he wished to draw particular attention to four of the recommendations adopted at the first International Workshop on National Institutions for the Promotion and Protection of Human Rights, held in Paris from 7 to 9 October 1991, which he had attended. The report by the Workshop was to be found in document E/CN.4/1992/43. The recommendations in question, which he wholeheartedly endorsed, were: first, that national institutions should address public opinion directly or through any press organ, particularly in order to publicize their opinions and recommendations; second, that in view of the fundamental role played by non-governmental organizations in expanding the work of national institutions, the latter should develop relations with NGOs engaged in protecting and promoting human rights, economic and social development, combating racism, protecting particularly vulnerable groups - especially children, migrant workers, refugees, physically and mentally

disabled persons, or in specialized areas; third, that the United Nations Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights should be increased in order that adequate assistance might be provided to national institutions; and finally, that in order to ensure action was taken on the results of the Workshop, the Commission on Human Rights should organize another seminar, to be held after the 1993 World Conference. He would add that Tunis had been proposed as the venue for such a seminar.

10. The United Nations programme of advisory services in the field of human rights had been established some 37 years ago, pursuant to General Assembly resolution 926 (X), which acknowledged the importance of technical assistance in attaining the objectives set out in the Charter and in the Universal Declaration. In that regard, he paid warm tribute to the work of the Centre for Human Rights and to the untiring efforts of the Under-Secretary-General for Human Rights, Mr. Martenson, which had left an important mark; there was every reason to believe that Mr. Blanca would be a most able successor. The Arab Institute on Human Rights, in Tunis, which owed so much to the late Dr. Mondher Anabtawi, was one of the regional institutions that had greatly benefited from the interest and support of the United Nations Centre. Again, the national training course on international human rights standards and national legislation held at Ulaanbaatar, Mongolia, from 28 October to 1 November 1991, was a most successful initiative and it deserved to be repeated elsewhere with national institutions. The Higher Committee for Human Rights and Fundamental Liberties in Tunisia for example, could take part in developing the fellowship and training programme. The Committee had been created at the beginning of 1991 and was, by virtue of its official status, mandate and capacities, ideally fitted to collaborate with the United Nations, and more particularly with the Centre on Human Rights, in the promotion of human rights and fundamental freedoms both in Tunisia, where it served in an advisory capacity to the President of the Republic, and abroad. Moreover, there was no duplication between the activities of the Committee and those of the Tunisian Human Rights Defence League and the Arab Institute on Human Rights. While the League appeared to concern itself with individual situations and specific cases, and the Institute had an essentially educational function, the Higher Committee exercised more of a policy-making role. However, it had also been declared competent to deal with violations of human rights and in the summer of 1991, at the request of the President of the Republic, had set up a commission of inquiry; orders had been issued for a judicial investigation into cases which the commission identified as involving such violations.

11. The President of the Republic of Tunisia was fully committed to the protection and promotion of human rights, but it must be acknowledged that realization of all the objectives of the Universal Declaration and the various international instruments would take some time. That was why consistent and far-reaching cooperation was called for, together with depoliticization of the subject, and account must be taken of the time and education factors that could bring about the required changes in mentalities.

12. Mr. JAGNE (Gambia) expressed satisfaction with the manner in which requests and recommendations concerning advisory services in the field of human rights made by his delegation at the previous session had been taken

into account; the Centre for Human Rights should be commended on its contribution to the marked improvement in respect for human rights and the protection of fundamental freedoms.

13. With the emergence of new democracies following the end of the Cold War, there was every reason to believe that the observance of human rights would become the centrepiece of the domestic and foreign policies of many countries. Moreover, democratic pluralism went hand in hand with respect for human rights. Nevertheless, and as many speakers during the present session had demonstrated, universal respect for human rights remained a distant goal. Torture and other cruel or degrading treatment or punishment; enforced or involuntary disappearances; racism and racial discrimination; manifestations of intolerance, often where they were least expected; and the subjection of children to ill-treatment and to prostitution all remained grave causes for concern. That was why his delegation attached particular importance to the programme of advisory services designed to assist Governments in developing the infrastructures that were necessary if international human rights standards were to be complied with. The increasing number of requests in that connection was encouraging, but as had already been pointed out, the provision of advisory services and technical assistance in no way reduced the responsibility or accountability of Governments with regard to their obligations under the various instruments.

14. The Commission's concern in the past had mainly been with the performance of Governments in the field of human rights, and solutions could always be found through concerted efforts. The problem lay in situations of insurgency, particularly when armed groups also committed atrocities. Although it might not be possible to extend formal advisory services to such groups, non-governmental organizations might be able to help. In that connection he would point out too that the establishment and maintenance of machinery for the peaceful settlement of disputes between individuals or groups, which was the subject of a report by the Secretary-General, must be an essential component of the basic human rights infrastructure of society.

15. The Gambia had always upheld the view that respect for human rights was a prerequisite for harmonious development. There was wide recognition of the relationship between human rights, popular participation and democracy on the one hand, and economic and social development on the other. Against that background, the Centre for Human Rights should be encouraged vigorously to pursue projects related to constitutional reform, institution-building and development of the democratic process.

16. The efforts of the Centre for Human Rights to provide assistance to those who were committed to a united, non-racial and democratic South Africa were to be especially applauded, given the urgent need for advisory services as South Africa worked its way through the delicate and difficult process of transition from apartheid.

17. He was confident that the Centre would continue to live up to the task assigned to it, but was equally conscious that, in view of the increasing calls on its services, the Centre should be provided with additional resources. Cooperation with other United Nations bodies and with other intergovernmental organizations would help to ease the burden. Also on the

subject of cooperation, he would urge that the idea of establishing subregional human rights centres for documentation and training in the OAS region should be borne in mind as a way of contributing substantially to the greater enjoyment of human rights in that part of the world.

18. As to the distinction between advisory services and technical assistance financed under the regular budget and activities financed from the Voluntary Fund, he wished to stress the need for proper coordination and to demonstrate flexibility, since the long-term objective of the activities was the same in each case and that every country, without exception, stood in need of help from one or the other source.

19. He could not fail to commend the efforts of the Centre for Human Rights under the leadership of the outgoing Under-Secretary-General, to whom special tribute was due. Without the support and encouragement of the United Nations Centre, it would have taken far longer to establish the African Centre for Democracy and Human Rights Studies. The same debt to the Centre was owed by the African Commission on Human and People's Rights. It was greatly to be hoped that, under the new administration, the same degree of cooperation would continue.

20. Mr. VERGA (Italy) said that the 1990s had begun with a surge of hope. The developments in Africa, Central America and Eastern and Central Europe were such that a new era of democracy, human rights and political freedom was born. A new human order was one of the challenges of the decade: a sensible reallocation of resources, a human-centred approach to decision making, and bilateral and multilateral endeavours were needed to transform broad concepts into plans and words into practical action.

21. The advisory services and technical assistance programme was a pillar of the activities of the Centre for Human Rights and could be regarded as part of the Organization's preventive diplomacy. In regard to the Voluntary Fund, his delegation had shown interest in the establishment of a technical cooperation unit, within the mandate of the Centre, to perform the urgent task of strengthening democratic institutions and assisting in the reform of legal systems through the execution of comprehensive and durable programmes. In the past three years, the donor community had repeatedly underscored the link between human rights, democracy and development. The conviction was amply shared that there was a vital connection between open, democratic and accountable political systems, the rights of the individual and the effective and equitable operation of economic systems with a substantial reduction in poverty.

22. He appreciated the Secretariat's efforts, as reflected in document E/CN.4/1992/49, to establish a more immediate distinction between the management and operations of the programme of advisory services and technical assistance on the one hand, and activities financed under the Voluntary Fund on the other. Equally welcome was the introduction of the concept of "comprehensive country programmes" for activities financed under the Fund, to which Italy had been a regular contributor from the beginning. The Italian Government, which was considering the possibility of increasing its contribution, also favoured the continuation of the associated experts programme launched in 1991 by financing three posts for Italian professionals.

23. The technical cooperation provided by the Centre for Human Rights in Latin American and in Eastern and Central Europe was important, and he would single out in that connection the Latin American Seminar on Human Rights, Democracy, Economic and Social Development, held in Chile in December 1991, and the recent, exemplary agreement on technical cooperation reached with the Government of Albania.

24. In short, his delegation remained firmly convinced that advisory services, technical assistance and technical cooperation had a vital role to play in ensuring democracy and full enjoyment of human rights in countries undergoing profound political and economic transformations, and thereby contributed to the strengthening of international peace, security and cooperation.

25. Mr. STROHAL (Austria) said that the present agenda item was the proper place for a comprehensive review of advisory services, an issue which, through its two-fold function of remedy and prevention, pervaded every aspect of the Commission's work. The overall programme resulting from that review should contain clear guidelines in two areas.

26. First, with regard to the substance of assistance and cooperation in human rights, advisory services could not replace government action: they could only assist and strengthen such action. It was thus important to concentrate on institution-building measures to contribute to effective implementation of international standards at the national level, for the best bastion against human rights violations was strong national infrastructures, which entailed long-term training programmes for legislators, judges, law enforcement officials and teachers, as well as specific projects in support of processes of democratization. In addition, regular follow-up assessments, and follow-up activities by the country concerned, must be undertaken. In that regard, it might be helpful to develop a range of model projects in areas such as administration of justice, independence of the judiciary, and prevention of torture.

27. The second element in a comprehensive definition of an overall programme of advisory services was its structure and management. While remaining complementary, the two main elements of the advisory services provided by the Centre for Human Rights - namely, the regular programme and projects financed under the Voluntary Fund - needed to be clearly distinguished, particularly with regard to their finances. Consequently, the problem of inadequate financing for the regular programme would have to be solved without recourse to voluntary contributions. His delegation thus appreciated the Centre's undertakings regarding clear internal structures to deal with requests for individual projects and was convinced that the work of the new technical cooperation unit would soon produce the desired results, particularly in view of the continuous expansion of the volume of funds available. In that context, he was pleased to announce that Austria had decided to contribute again to the Voluntary Fund.

28. In the wider context of cooperation within the United Nations system as a whole, special rapporteurs and working groups had an important role to play: their recommendations should lead to concrete proposals for projects under the advisory services programme. The same was true of the work of treaty-based

bodies, which should be encouraged to identify and to follow up project proposals. His delegation also urged the Centre to formulate concrete project proposals on the basis of those recommendations, for submission to the Governments concerned. A chapter on such recommendations and their follow-up should appear in next year's report to the Commission.

29. Outside the Centre for Human Rights, interesting work had recently been done in other parts of the system, such as the United Nations Development Programme (UNDP), the World Bank, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Labour Organisation (ILO). Through regular inter-agency contacts, the Centre was endeavouring to serve as a focal point for those efforts. If it was to play an effective role in that context, however, its resources would have to be strengthened, and cooperation with other organizations intensified, with a clear focus on common objectives and on execution of joint projects with material support from those organizations.

30. Beyond the United Nations system, the vast number of governmental aid agencies and non-governmental organizations active in the field of advisory services should be encouraged to cooperate actively with the Centre, which, in the longer term, would be able to serve as a "clearing house" for participants in advisory services, coordinating both input, in the form of project identification and assessment, and output, in the form of project implementation and follow-up. There again, development of such a comprehensive programme would necessitate a strengthening of the Centre's resources.

31. It was gratifying to note that a growing number of countries were expressing an interest in such cooperation, and that more and more projects met the criteria he had tried to sketch out. In that context, his delegation had expressed its opinion on the reports by Mr. Tomuschat (E/CN.4/1992/5) on the situation of human rights in Guatemala, and by Mr. Volio Jiménez (E/CN.4/1992/51) on Equatorial Guinea, in what it saw as their proper context, namely, under agenda item 12. Advisory services were comprehensive in nature. Agenda item 19 was a complement, not an alternative, to other items: increased international cooperation for technical assistance in the field of human rights should be a welcome addition - and never an alternative - to monitoring respect for human rights.

32. Mr. BODBAATAR (Observer for Mongolia) commended the work done by the Centre for Human Rights during the past year in the field of advisory services, in helping to build up national human rights institutions and infrastructures by providing expert advice on the elaboration of democratic constitutions and legislation, by offering fellowships, organizing national, regional and international seminars, and by publishing international human rights instruments in local languages. Such multi-faceted assistance was essential for countries such as Mongolia, which were at present undergoing a process of democratization and restructuring. Thanks to the Centre's expert assistance, Mongolia's recently enacted Constitution reflected universally accepted human rights standards, not only proclaiming fundamental human rights and freedoms, but also establishing the State's responsibility to create economic, social, legal and other guarantees and to combat violations of human rights and freedoms, and to restore those rights where they had been infringed.

33. In cooperation with his Government, the Centre had also organized a training course on international human rights standards and national legislation, held in Ulaanbaatar in the autumn of 1991. The course had given law-makers, legal practitioners and other relevant officials and non-governmental organizations a better knowledge and understanding of international human rights standards and of the existing machinery to implement them. He wished to express his Government's gratitude to the Centre for its valuable assistance in the field of human rights, and reiterated its readiness to enhance its cooperation with the Centre, particularly in regard to advisory services and technical assistance.

34. Mr. O'FLOINN (Observer for Ireland) welcomed the clear distinction drawn in the Secretary-General's report (E/CN.4/1992/49) between activities financed under Section 24 of the Regular Budget and projects financed under the Voluntary Fund for Technical Cooperation in the Field of Human Rights, as well as the stress laid on close coordination of all advisory service functions, however financed. One general criticism of the report presented to the Commission was that it was not concise enough, some of the material included being more appropriate to a report on the general activities of the Centre for Human Rights. The next report to the Commission should focus only on those activities which concerned advisory services.

35. It was gratifying that further steps had been taken to improve management of the Voluntary Fund, particularly by the establishment of the Technical Cooperation Unit, and his delegation looked forward to receiving the promised publication explaining the operation of the Fund to donors and beneficiaries. However, organizational changes and additional publications were not sufficient. There must also be continuous dialogue between the Centre and all interested missions in Geneva, to secure an efficient and productive use of contributions to the Fund. He was also pleased to see the number of seminars and workshops organized in 1991, but the organization of such seminars, with the participation of an impressive array of senior officials, was not always followed by an improvement in observance of human rights in the country concerned. Provision of advisory services and technical assistance did not diminish a government's responsibility in the field of human rights.

36. On a more positive note, his delegation fully endorsed the growing emphasis on the interrelationship between human rights, responsible government and sustainable development. Such emphasis should be pursued and the patronizing attitudes of the past should be eschewed. There must be wholehearted cooperation between countries with different historical experiences, enabling all of them to benefit from that interrelationship. His delegation was particularly glad to note that a mission had visted Lesotho in November 1991 to provide advisory services on the legal and technical aspects of democratic elections. Lesotho and Ireland had a close relationship in the context of Ireland's bilateral development aid programme. The mission had been received at the highest level, and he warmly commended the initiative of the Government of Lesotho in availing itself of advisory services on that question.

37. His country was a sponsor of the draft resolution on Advisory Services and the Voluntary Fund, which was intended to replace the two resolutions adopted by the Commission the previous year. It wished to record its

appreciation of the very valuable work done by Germany in that regard. The draft resolution exemplified ways in which the Commission could rationalize and update its work with regard to the resolutions adopted each year. In its last section, the draft resolution dealt with system-wide cooperation - a question to which he attached much importance - welcoming the identification by ILO and the Centre of areas for closer cooperation, particularly in connection with the World Conference on Human Rights.

38. Ireland was fully aware of the increased demand for assistance from the Voluntary Fund and it welcomed the Secretary-General's emphasis on the particular needs of developing countries. It had made its first contribution to the Fund in 1991 and had made a substantially increased contribution for 1992. It had also made a considerably higher 1992 contribution to the Voluntary Fund for Victims of Torture, having recently paid IR£ 5,000 to defray the travel expenses of representatives of the least developed countries participating in the World Conference on Human Rights and in its preparatory process. Ireland's total contribution in 1992 to the various voluntary funds for human rights totalled IR£ 12,000, and was about three times its 1991 contribution. That increase was a tangible demonstration of its commitment, despite its own limited resources, to cooperation with developing countries in the cause of human rights.

39. Mrs. LUND (Observer for Norway), speaking on behalf of the five Nordic countries, said that the programme of advisory services was instrumental in achieving the overall objective of assisting States in their efforts to build the necessary infrastructures and create a lasting foundation for the widest realization of human rights. A clear distinction should continue to be drawn between activities in the programme financed under the regular budget and those financed under the Voluntary Fund. Care should be taken, however, to ensure that the same standards were applied to the preparation, execution and follow-up of all programme components. Equally important were thorough evaluation in the pre-project phase, and justification of the activities in question. For activities under the regular budget, clearer criteria should be applied for project identification and appraisal. The objectives, themes and methods of organizing the training courses, workshops and seminars should be more clearly defined in relation to the beneficiaries' specific needs. Categories of participants should be more carefully selected, and better follow-up and assessment methods introduced. She accordingly urged the Secretary-General to take steps to follow up on those questions and to include information on that matter in his report to the Commission in 1993.

40. The Nordic countries welcomed the recent measures to ensure more effective operation and administration of the Voluntary Fund. The newly established technical cooperation unit should enable the Centre to handle the increased magnitude and complexity of programmes under the Fund more effectively and it would make for better application of the guidelines for appraising project viability, monitoring implementation and assessing results. There was a need to design and implement further short- and longer-term policies in response to the sharp rise in requests for assistance - a need that would also be crucial in deciding on the relationship between the Centre and other United Nations agencies in the area of technical assistance. In that regard, the Centre for Human Rights should give further consideration to the development of model programmes for building and strengthening national

institutions, which, once formulated, could be tailored to individual country situations. Such model programmes could first be envisaged for projects relating to legal protection and the strengthening of the judiciary. For that purpose, due note should be taken of the analysis of relevant parts of the advisory services programme undertaken by Mr. Joinet in his report on the independence of the judiciary and the protection of practising lawyers (E/CN.4/Sub.2/1991/30). More active account should also be taken of the recommendations of the thematic special rapporteurs and working groups, and of the treaty-monitoring bodies, in designing advisory services under the auspices of the Commission.

41. Further thought should be given to the question of the period of time for which the Centre should be involved in the implementation of each project. In future, its main role might be to develop the framework, methods and concepts needed for strengthening human rights in the development process, seeking to involve other parts of the United Nations system and outside expertise in the actual implementation and follow-up. Such a procedure would allow for better use of limited resources and greater flexibility, and might ultimately produce better results. Some situations, however, might call for longer-term involvement by the Centre at the outset.

42. In order to address both the promotion and the protection of human rights, the Secretary-General would be well advised, before embarking on technical cooperation, to make sure that the States concerned were fully committed to fulfilling their international human rights obligations. To that end, the Nordic countries supported an advisory services strategy based on systematic evaluation of the human rights situation in question and of the needs and capacities of the countries concerned.

43. In 1991 the Nordic countries had substantially increased their contributions to the Voluntary Fund, which they would continue to support. They were satisfied that the Centre would ensure transparency in the criteria applied and the rules of procedure to be followed in carrying out projects. They noted with particular interest that early contacts would be made with other United Nations agencies and organizations, with a view to their possible participation in projects. It was to be hoped that that development would lead to more extensive cooperation between United Nations agencies and organizations dealing with protection of human rights and those dealing with development cooperation. The Nordic countries suggested that the Centre might follow meetings of the Governing Council of UNDP and of other executive organs, with a view to identifying common ground for cooperation. It should also explore ways in which non-governmental organizations could play a more significant role.

44. Mr. KEDZIA (Observer for Poland) said that the proper and effective implementation of advisory services and technical assistance in the field of human rights was of undeniable importance for all countries that were in the process of creating or developing the necessary mechanisms to meet international human rights standards. The creation of workable human rights infrastructures was an indispensable element of those services. Expert services, fellowships and scholarships, training courses and seminars were of great significance in that regard. There was an acute need for information, organized documentation and human rights training in all the post-communist

countries. Consequently, the intention of the Centre for Human Rights to establish facilities for human rights documentation and training in those countries was most welcome, and indeed indispensable, in the light of their severely limited financial resources.

45. A few months ago, the Centre and the Polish Government had signed a technical cooperation project to strengthen human rights infrastructures in Poland, through wider dissemination of information, appropriate documentation, and training of target groups such as parliamentarians, government officials, judges, lawyers, teachers, students, trade unions and other non-governmental organizations. After a thorough examination of existing needs and domestic human rights institutions, it had been agreed that support for those institutions would be preferable to the creation of new ones. The project had already had a catalytic effect on a wide range of human rights activities. Its implementation had contributed significantly to the establishment of a network of human rights institutions at the academic level and among non-governmental organizations. While the programme of advisory services could not be expected to solve all Poland's problems, it should nevertheless help to build a solid basis for future efforts.

46. The advisory services programme needed to be implemented in a flexible manner, since needs varied from country to country. Due significance should thus be attached to the work of the technical cooperation unit within the Centre. In that context, the draft resolution on Advisory Services and the Voluntary Fund for Technical Cooperation in the Field of Human Rights deserved full support.

47. As to agenda item 22, Poland had been among the initiators of the Convention on the Rights of the Child and it attached great importance to compliance by State parties with their obligations under the Convention. Hence it welcomed the Swedish delegation's initiative regarding a resolution on the implementation of the Convention on the Rights of the Child and fully supported the resolution.

48. Mr. REYN (Observer for Belgium) said a State must, of course, be in a position to implement international instruments, and that was where the programme of advisory services had an important role to play in creating and promoting national institutions for the protection of human rights. It would be remembered that General Assembly resolution 46/137 had highlighted the importance of advisory services and technical assistance in the holding of free elections. Moreover, the Centre for Human Rights could provide assistance in creating an effective judiciary and police force.

49. Belgium welcomed the greater recognition of the close link between democracy, human rights and development assistance. The European Community, together with the other signatories of the Lomé Convention, had incorporated human rights in its development programme and the Twelve stood ready to offer assistance to countries that embarked on the road to democracy and pluralism. Conversely, human rights violations and harm to the democratic process entailed consequences that could well lead to a reduction in development aid and cooperation.

50. His delegation attached special importance to establishing regional arrangements to promote and protect human rights, particularly in Asia and the Pacific. For many years, Belgium, together with a number of other countries, had been working to achieve greater cooperation between regional and international human rights institutions. The programme of advisory services offered a suitable framework for such efforts. Accordingly, his delegation supported the advisory services and technical assistance activities of the Centre for Human Rights in the various regions of the world.

51. Mr. URRUELA PRADO (Observer for Guatemala) thanked the Commission, on behalf of the civilian and democratic Government of President Serrano Elías for recognizing the efforts made by the Government to achieve full respect for human rights and the rule of law. The human rights violations in Guatemala must be seen in the historical, economic, social and institutional context. An authoritarian tradition in a repressive system and a domestic armed conflict of more than 30 years had had an adverse impact on the prevailing situation of impunity. As a developing country with limited resources, Guatemala called upon the international community to ensure, in keeping with the independent Expert's recommendations, implementation of a special medium- and long-term programme to combat the problem of impunity. The activities carried out by his Government to improve the human rights situation were set out in document E/CN.4/1992/69. It should be noted, for instance, that the Department of Public Prosecutions had been strengthened and reorganized and that the Congress of the Republic had approved the International Covenant on Civil and Political Rights.

52. His Government would spare no effort to put an end to the armed conflict in Guatemala. To that end, it had submitted a peace plan calling for direct negotiations with the leadership of the irregular forces. The armed conflict had had an enormous impact on human rights guarantees. It had impeded the country's development, causing extreme poverty among broad sectors of the population, which in turn had led to crime and violence that could not be effectively held in check. The unpunished activities of the irregular forces constituted grave human rights violations directly affecting the civilian population, such as terrorist attacks against the economic infrastructure involving the destruction of roads, bridges and power lines, and placing land-mines in population and production areas.

53. The Government had taken a firm stance on the problem of refugees and displaced persons and on providing of health care, education and access to markets for the population in the areas of conflict. During the visit by the United Nations High Commissioner for Refugees on 12, 13 and 14 November 1991, an agreement had been signed between the Government of Guatemala and UNHCR to set up the basis for repatriation and to make sure that refugees were treated with dignity and in security. An end to the refugee problem was being sought through voluntary repatriation. In view of the need to improve the quality of life of the population and in order to achieve a firm and lasting peace, the National Peace Fund had been created to back up the policy of financial and technical support for the preparation, supervision and follow-up of programmes and projects aimed at helping those persons affected by the armed conflict.

54. Guatemala intended to work with the Commission in its efforts to build a more just, peaceful and democratic Guatemala.

55. Mr. VIGNY (Observer for Switzerland) said that in order to improve the overall performance of the programme of advisory services and in view of the insufficient resources available to the Centre for Human Rights, it was important to define priorities clearly when drafting and carrying out programmes. The distinction established between activities financed under the regular budget and to those financed under the Voluntary Fund would improve advisory services management and would not interfere with cooperation between those two complementary activities.

56. As to programmes financed under the regular budget, a careful defining of priorities and assessment criteria was the only way to balance financial constraints and a growing number of projects. A choice must be made among the various project requests and it was essential to select projects that would have a predictable impact and could be carried out in cooperation with other institutions. When projects were drafted it was essential to ensure the systematic involvement of the relevant mechanisms of the Commission and of the non-governmental organizations. Projects must benefit from objective assessment and careful follow-up. The Under-Secretary-General must give attention to requests for assistance, under treaty and institutional arrangements, for they reflected serious shortcomings that usually needed urgent technical assistance.

57. For the Voluntary Fund, it was equally necessary to impose strict programme management based on the definition and implementation of project assessment criteria. In that context, his delegation welcomed the creation by the Under-Secretary-General of the technical cooperation unit to improve the management of the Fund by introducing coherent and precise rules for project assessment. As a result of that initiative, his Government, a contributor to the Fund since 1990, had substantially increased its contribution, which in 1991 had amounted to 80,000 Swiss francs, about US$ 60,000.

58. Given the importance of an independent judiciary in improving respect for human rights, his delegation was in favour of focusing on projects aimed at strengthening the independence of the judiciary, in keeping with the constructive proposal of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1991/30); the concrete proposals for advisory services made in that document could serve as a model.

59. The three independent Experts on Guatemala, Haiti and Equatorial Guinea, appointed under agenda item 19, had mandates that would have been more appropriate under agenda item 12, and their on-site missions had not enabled them to recommend making advisory services available to those countries. It would therefore be preferable to appoint a special rapporteur under agenda item 12 for any country in which serious human rights violations were taking place. The special rapporteur's task would be to investigate the situation, identify advisory service needs and report to the Commission. The Commission would then draft a resolution calling upon the State concerned to request the advisory services recommended by the special rapporteur and the Centre for Human Rights would ensure on-site follow-up by sending experts to carry out specific projects within the framework of the programme criteria defined by the special rapporteur, who must check whether the criteria were being respected. If a special rapporteur was not appointed under agenda item 12

to investigate serious and repeated human rights violation in a particular country, the thematic experts should coordinate their activities in regard to that country and take action on advisory services.

60. Mr. ELLOUZE (Observer for Sao Tome and Principe) said that his country, which had shown its political determination to promote and protect human rights, could legitimately request advisory services and technical assistance. His delegation called for an increase in the resources available to the Centre for Human Rights, which meant that the Centre must have the mandate and the means to carry out its own perestro' a, i.e. restructuring and revitalization. Sao Tome and Principe, which stood ready to defend and promote human rights, did not yet have the structural prerequisites for consolidating the achievements of its democratic society in the field of human rights. Enhanced programmes of advisory services and technical assistance would be an appropriate response for the young democracies. Clearly, the increasing number of requests for such assistance programmes meant that more resources were needed.

61. States which made generous contributions to voluntary funds were to be congratulated. Priority should go not to new standard setting but to the implementation of existing standards. In that regard, information, training and advisory services were of considerable importance. There was a correlation between the resources and means available to a country for protecting human rights and the determination with which it carried out its own national human rights programme. It was for his country to set the priorities and for the Centre for Human Rights to provide a ditional aid and the necessary support to that end.

62. Mr. TEITELBAUM (American Association of Jurists) said the fact that Guatemala, Equatorial Guinea and Haiti figured under agenda item 19 as countries receiving advisory services and technical assistance implied that the Governments of those three countries were determined to improve the human rights situation with the help of the United Nations, whereas exactly the opposite was the case. The independent Experts for those three countries had revealed the truly deplorable human rights situations there.

63. The American Association of Jurists shared the view that advisory services could be provided to countries in which human rights were violated, but it was essential to consider how to provide them, to whom and under what conditions. Again, such services must not be incompatible with investigations into human rights violations in the country concerned. Under no circumstances, however, should the advisory services and technical assistance be used to give a distorted picture and to conceal the true human rights situation.

64. It was striking to note from the last two reports of the Secretary-General on advisory services (E/CN.4/1991/55 and E/CN.4/1992/49) the imbalance in certain cases between the activity carried out and the human and financial resources engaged. For example, in a practical course lasting three days in Manila, the Philippines, 14 experts had participated at a cost of some US$ 150,000. Seventeen experts had taken part in a four-day course on the rights of the child held in India, although not all of them had had previous experience with the subject-matter. In general, such courses and seminars were attended by government officials, members of the armed forces and

security forces and what his organization termed "para-governmental organizations", but there were virtually no representatives of truly non-governmental organizations (NGOs) or human rights groups. The fellowship programme was exclusively for candidates proposed by Governments. The time had come to modify the procedure for selecting candidates so that national and international NGOs could propose fellowship candidates to the Secretary-General.

65. A great effort had been made with publications, but for example, ordinary paper could be used instead of glossy paper so as to cut back on costs. The publications had not paid sufficient attention to economic, social and cultural rights. It would be useful to print the decisions and resolutions of the General Assembly concerning those rights, as well as the 1986 Declaration on the Right to Development.

66. It was gratifying that the advisory services programme offered courses and seminars to members of the armed forces and security forces. However, his organization was sceptical about the results, because it was difficult to counteract by means of a short seminar the disregard for life and human dignity which members of such groups, and particularly those in so-called elite battalions or special forces, learned in their theoretical and practical training. A study should be conducted on the content of the training received by members of the armed forces and security forces, and he suggested systematic inclusion of human rights topics in training courses.

67. Again, courses and seminars should only be carried out in countries whose Governments allowed members of genuine non-governmental organizations and human rights groups to attend. The opposition raised by certain Governments to participation by NGOs was proof of the lack of true interest in improving the human rights situation and showed that advisory services were being used solely to improve a country's international image. It was important to set up a governing council for the Voluntary Fund, consisting of independent experts from the various geographical regions, to manage the finances and to decide which programmes would be given priority, in the light of the urgency and expected effectiveness of each project. The NGOs should have some form of representation on the council.

68. The non-governmental commission to investigate the coup d'état in Haiti, which had its headquarters in New York and in which the vice-president of the American Association of Jurists, Deborah Jackson, was participating, had sent a mission to the Dominican Republic in November and to Haiti in December 1991. In its preliminary report, the commission had given an account of the terrible situation of thousands of Haitian refugees in the Dominican Republic, who had been imprisoned, robbed and beaten by members of the Dominican armed forces. Many had returned to Haiti. The mission had noted heavy transfrontier traffic, in breach of the embargo imposed by the Organization of American States. In Haiti, the mission had found that detentions and ill-treatment were widespread. An estimated 1,500 to 2,000 persons had been murdered by the armed forces and the "Tontons Macoutes" since the coup d'état. The international community must provide the Haitian refugees with humanitarian assistance, and a special force must be created so that President Aristide and his colleagues were protected if he returned to Haiti to resume leadership of the Government.

69. Ms. REYES (International Federation of Human Rights) said that, despite the many statements by States members and non-members of the Commission and non-governmental organizations to the effect that the case of Guatemala should be examined under agenda item 12, it had been decided to continue to consider it under agenda item 19. In the last paragraph of resolution 1991/51, the Commission had decided that the question would be considered under an item of the agenda to be determined in the light of the report by the independent Expert on the situation of human rights and fundamental freedoms in Guatemala. The many allegations and conclusive evidence heard left no doubt that the situation in Guatemala continued to be serious. The Expert, Mr. Tomuschat, had stated in his report (E/CN.4/1991/5 and Add.1) that the Guatemalan people were still living in a state of fear and intimidation. Her organization would therefore have liked the Expert to recommend that the Commission should exercise greater vigilance over the Government of Guatemala. Other interests had prevailed, however, and the Commission had again given the Government the benefit of the doubt - a fact that would certainly be regretted at the next session when the voices of the victims were heard once more.

70. The Commission's decision compromised the United Nations advisory services in the field of human rights, which should be provided to countries that were in a position to implement the experts' recommendations and not to countries in which the situation revealed a consistent pattern of violations of human rights. The Government would inevitably interpret it as the international community's consent to continue to repress the people, as it had done ever since the case had been transferred from agenda item 12.

71. As to the Government's report (E/CN.4/1992/69) on its activities related to the policy on human rights and respect for legality, any advice that could be given to the Guatemalan national police by the Carabineros Professional School of Chile was unlikely, in view of that School's history of repression, to bring about any improvement in the way in which the police performed their constitutional function of guaranteeing the safety of citizens. Such other measures as reopening the National Police School with a new study programme to include a course in human rights, strengthening the civilian authority of the Ministry of the Interior, providing the necessary equipment and technical expertise for all National Police agents, preparing human rights manuals and establishing a criminal investigation laboratory, would be insufficient if the national police failed to realize that all its actions were closely linked to observance of human rights.

72. Secondly, the establishment of a Presidential Committee to Coordinate the Policy of the Executive in terms of human rights, cited as proof of compliance with Mr. Tomuschat's recommendations, had had no effect on the human rights situation, since the Committee had not begun its work. That kind of committee was not new. During the Government of Vinicio Cerezo, a presidential advisory commission on human rights had been established, but nothing was known about its functions beyond the fact that it had signed a report prepared by members of Guatemalan military intelligence and submitted to the Commission at its forty-fifth session.

73. As to the outcome of the advice given to the Government of Guatemala since the case had been placed under agenda item 19, she drew the Commission's attention to paragraphs 139 and 140 of the independent Expert's report, in

which it was stated that recommendations designed to improve the judicial protection of human rights had not been properly complied with. Clearly, the Guatemalan Government had not made proper use of the advisory services provided by the United Nations, and her organization feared that the recommendations made in 1992 by the independent Expert might suffer the same fate. Any advice on human rights offered to Guatemala would remain insufficient if the civil power continued to be dominated by the military. The civil government would be incapable of properly implementing any recommendation to improve the human rights situation if no protection was afforded to members of peoples' and human rights organizations who daily risked their lives for the defence of the human rights that were fully guaranteed under article 45 of Guatemala's Constitution, and if advisory services were not offered also to the non-governmental organizations to help them to improve their activities.

74. Ms. AULA (International League for the Rights and Liberation of Peoples) said that a system of advisory services no doubt represented a first step in handling and denouncing situations in which fundamental human rights and freedoms were violated.

75. In conformity with Commission resolution 991/77, Mr. Marco Tulio Bruni Celli had been appointed as the independent Expert to study and prepare a report on the human rights situation in Haiti. Her delegation welcomed the intention of the Centre for Human Rights to continue to follow closely the disturbing situation in that country, but regretted that firmer action had not been initiated to put a final end to the afflictions of the Haitian people. Following the elections on 16 December 1990, which had taken place in the presence of international observers and had opened the way to democracy, the situation had been disrupted by a military coup d'état, which the Expert had described as unacceptable, illegitimate and against democratic principles. Contrary to the letter and spirit of the 1987 Constitution, the coup had overthrown President Aristide in contempt for the dignity of the Haitian people. While recent events appeared to show a willingness to re-establish some spirit of democracy, it must not be forgotten that, since the coup d'état, violence, torture in prison, disappearances and abductions, searches without a warrant, violations of freedom of movement, press embargoes, prohibition of meetings and repression had assumed increasingly striking proportions. The Inter-American Commission on Human Rights reported that there had been some 1,500 executions.

76. As indicated in paragraph 100 of the independent Expert's report (E/CN.4/1992/50), hopes of freedom, peace, jobs and well-being aroused by President Aristide's entry into office had checked emigration somewhat, but it had picked up again after the coup d'état; Haitians were generally believed to emigrate chiefly for economic reasons, but emigration should also be regarded as having its roots in the terror that existed in the country. It was well known that the terrible repression, in which so many innocent and unarmed people had been massacred, was increasing and giving rise to the desperate flight of more than 15,000 boat people, who were often subjected to inhuman treatment on the part of immigration authorities. The unequivocal position taken by the High Commissioner for Refugees was significant in the light of Washington's desire to turn away thousands of Haitian asylum seekers. In view of the serious violations of human rights in Haiti, and lest the returnees would be in danger, the High Commissioner had requested the United States

authorities to delay their enforced repatriation until the situation in Haiti had stabilized. Unfortunately it could only be said that a further violation of the rights of the Haitian people was being perpetrated.

77. Faced with the difficulty of maintaining the rule of law, President Aristide had none the less restored the 1987 Constitution, but it was clear, as emphasized in paragraph 138 of the Expert's report, that the overriding and legitimate concern to protect and guarantee human rights as laid down in the Constitution and defined in the international instruments ratified by Haiti presupposed the organization, shaping and harmonization of an integrated system of justice comprising modern legislation, a professional police force, independent courts and a trained prison administration. Those matters had no place in the present regime in Haiti.

78. There did appear to be some sign of hope and of an agreement on setting up a consensus Government, yet it was for all the other reasons to which it had drawn attention that her organization urged the Commission to revert to General Assembly resolutions 46/7 and 46/138 with a view to promoting the restoration of democracy and the return of the legally elected President of the Haitian Republic; firmly to condemn the constant abuses against the Haitian people; to appoint a special rapporteur to examine the situation in greater detail; and to invite the United States to refrain from forcibly repatriating thousands of boat people, by granting them temporary protected status, for example.

79. There was, however, a burning issue to be considered by the international community before specific action was taken: were Haiti and its people to be a matter of conscience or of indifference? It was indeed a case that should stir the conscience of every human being worthy of the name.

80. Ms. NEURY (Centre Europe - Tiers Monde) said her organization was seriously concerned about the alarming situation in Haiti. It commended Mr. Bruni Celli on his excellent report on the situation of human rights in that country, a report that could not have been easy to prepare because there had been three Governments in Haiti in 1991: one provisional, the second democratically elected, and the third taking power by armed threat.

81. After 29 years of bloody dictatorship under the Duvaliers, and more than five years of transition during which there had been five successive Governments, the Haitian people had, for the first time, democratically elected their President in December 1990 in the person of Father Jean-Bertrand Aristide, who had represented the hope of the underprivileged for democratic change. His programme, based on justice, participation and transparency, had been unable to reverse the country's poor economic situation or to destroy the malevolent spirit of Duvalierism, for on 30 September 1991 the first independent black republic had fallen back into the hands of oppressors known as the Tontons Macoutes. The hopes of the Haitian people had vanished and the will of the people had been flouted. The terror in Haiti had never before reached such a degree of violence. Although the putschists had been condemned by international opinion, the economic and political embargo declared by States had not been fully respected, even though it could have been used as a tool to pressure the military junta and induce it to accept a compromise for a return to civilian government.

82. Ever since the coup, the illegal government had been engaging in terrorism, massacre and plunder and had violated numerous provisions of international human rights law which Haiti was committed to respect. It had, for example, done nothing to fulfil its legal obligations under the International Covenant on Civil and Political Rights, to which it had become a party in February 1991. To intimidate and terrorize the people, the security forces were daily carrying out summary executions in contravention of article 6 of the Covenant, which specified that every human being had the inherent right to life and that no one could be arbitrarily deprived of his life. More than 1,500 people had been killed since the coup d'état, either by the Army or by the Tontons Macoutes. In disregard of article 7, most of the people, including children, who had been arbitrarily arrested were frequently ill-treated and often tortured. A number of people had reportedly died shortly after release from prison, from the ill-treatment they had received. The security forces had also entered churches and arrested worshippers, and followers of Jean-Bertrand Aristide. In contravention of article 9 of the Covenant, arbitrary arrests were increasing hourly. Searches without warrant, prohibited under article 17, were frequent and regular. It was not only Father Aristide's followers who were subjected to violent repression: people working in the media were military targets, too. Radio correspondents had disappeared and despite numerous appeals by international human rights bodies, no news of them could be obtained. The director of Radio Caraibes had been brutally murdered and many journalists who had been threatened had gone underground. A German television crew filming a demonstration had been questioned by the security forces and ill-treated before finally being released. Yet article 19 of the Covenant, of course, stated that everyone must have the right to hold opinions without interference.

83. The oppression was designed to eliminate any structure that could sustain the efforts of the Haitians to bring the country out of its economic stagnation. It tried to silence the representatives of organizations that were seeking to organize popular participation and establish a true democracy, and it completely obstructed technical and development cooperation programmes. It meant flouting the will of the people and meant murders, arrests and disappearances of innocent men, women and children. Until there was a return of law and order, Haiti would continue to live in agony.

84. Her organization therefore supported the recommendations in Mr. Bruni Celli's report. As President Aristide had pointed out in his statement to the Commission, the Commission must do everything possible to denounce those who abused their authority, force the putschists to respect fundamental rights and take firmer positions against Governments, even denouncing the usurpers of power who had no respect for the rights of others. The Commission should condemn the coup d'état of 30 September 1991; request States scrupulously to respect the embargo and to suspend decisions for the forcible return of refugees, pending settlement of the crisis; call for a return to constitutional government; and reappoint a special rapporteur to monitor the situation of the human rights and fundamental freedoms of the Haitian people.

85. Ms. BERRY (Lawyers Committee for Human Rights) said that, in February 1990, her organization had published an evaluation report on the programme of advisory services with specific reference to Guatemala, and had

urged the Commission to develop objective criteria for determining whether a country had demonstrated sufficient respect for international norms to be eligible to receive advisory services. Among the criteria proposed by her organization were the extent to which a country's civilian courts could function independently and prosecute members of the armed forces and the police implicated in human rights crimes; the extent to which civilian law enforcement institutions, such as the police, were separate from and independent of the military; whether there were reliable reports of torture by the country's armed forces or police; and whether there were reliable reports of other violations of the integrity of the individual by such forces.

86. Mr. Hector Gros Espiell, who had advised and assisted the Government of Guatemala for some four years, had reported in February 1990 that there had been no change in the situation and had stated that, until the gulf between law and reality was bridged, the human rights situation would not improve. The Lawyers Committee had similarly concluded that United Nations advice and assistance had had very little impact on Guatemala's dismal human rights situation, and had urged the Commission to suspend indefinitely its advisory services programme in that country and renew its commitment to monitor violations of basic rights. Two years later the situation was still serious and in some respects was deteriorating. The Government still failed to assert its authority over military and paramilitary groups or to investigate and prosecute those responsible for human rights crimes. There had been no improvement in the situation described by Mr. Gross Espiell in 1990: aided by an ineffectual and often intimidated judiciary, the armed forces continued to act with impunity, to kill and to cause disappearances.

87. According to the police, Myrna Mack, the prominent Guatemalan anthropologist, had been murdered in September 1990 because she had written a study on policies towards internally displaced persons in Guatemala. There were strong indications of a cover-up and the investigation had begun to drag on. Her organization knew of no Guatemalan officer who had been convicted of a human rights violation. If the killing of Myrna Mack could not be satisfactorily solved, there was little hope that the Government would assert its authority over its armed forces and security forces.

88. Her organization urged the Commission to bridge the gap between its acts and reality. It was stated in the Secretary-General's report on advisory services in the field of human rights that such services might complement, but could never be a substitute for, monitoring and investigation and that the provision of such advice and assistance in no way reduced a Government's accountability in human rights situations or exempted it from scrutiny. Encouraging statements had been made against the scourge of impunity, but the time had come for the Commission to admit that the United Nations programmes of advice and assistance to Guatemala had had no substantial impact on the enjoyment of human rights by the people of that country. The Commission should make it a priority to protect them and resume its monitoring and reporting on human rights violations there.

89. Referring to the situation in Haiti, in 1989 the United Nations expert on that country had urged the Commission to consider whether minimum standards of respect for international norms should be required for a country to benefit from United Nations advisory services, but his recommendations had gone

largely unheeded. Despite evidence of deep-rooted human rights problems, the Commission had decided at the previous session to consider the human rights situation in Haiti under agenda item 19 rather than agenda item 12. The horrifying events during and after the coup had confirmed her Committee's belief that that had been a mistake. The extent and frequency of gross human rights violations had reached levels not seen since the time of the Duvaliers. Extrajudicial executions, torture, arbitrary arrests, disappearances, prohibition of meetings and demonstrations and harsh measures against the press were a regular occurrence. She urged the Commission firmly to condemn those violations, to appoint a special rapporteur to monitor and report on the situation and to consider the question again under agenda item 12. Also it was to be hoped that the Special Rapporteurs on Torture and on Summary or Arbitrary Executions, as well as the Working Group on Arbitrary Detention, could shortly visit Haiti to conduct investigations.

90. The advisory services programme depended on close cooperation between government officials and the United Nations expert. The advisory services role could not be undertaken effectively in countries where there was a need for the Commission to monitor and report on serious human rights violations. Such services should never divert attention from the cause and severity of violations in recipient countries. In its 1990 report, her organization had recommended that the United Nations human rights bodies, and in particular the Commission, should revert as a matter of priority to their primary role of protecting people from human rights violations: the Commission should report impartially on such violations and make its findings available for diplomatic debate and action. Where there was a consistent pattern of gross violations, as in Guatemala and Haiti, it should give priority attention to carrying out its reporting functions effectively, as the only United Nations body empowered to do so. For some, it was the only intergovernmental body that would ever do so.

91. Increased attention should be given by the United Nations to the activities of non-governmental organizations working for the protection of human rights and in particular to those of local human rights groups and other independent non-governmental organizations working to sustain the rule of law. International non-governmental organizations increasingly saw their role as one of giving support and assistance to local groups and individuals, which the United Nations continued to exclude.

92. Secondly, the Lawyers Committee had continued to stress the importance of independent evaluation of projects. While welcoming policy guidelines providing for evaluation of both immediate and long-term objectives, it had repeatedly expressed its concern about the way in which such evaluation was carried out. It was glad to see from the Secretary-General's report that the Centre for Human Rights would continue to refine goals, priorities and criteria for project appraisal. There should be an open and objective review of all technical assistance projects, particularly when substantial sums of money and other resources were involved. That would mean setting practical and achievable goals within a realistic time-frame, so that projects could be usefully evaluated, and should include practical steps to determine, for example, whether prosecutions were brought against torturers, whether the police and prisons were under effective control, whether compensation was

given to persons wrongfully imprisoned and whether the government in question was making it clear to those concerned that human rights violations would no longer be tolerated.

93. Lastly, the report to the Sub-Commission on the independence of judges and lawyers (E/CN.4/Sub.2/1991/30), contained recommendations about the implementation of guidelines and criteria and improved cooperation between the various programmes that were of critical importance.

94. Mr. Solt (Hungary) took the Chair.

95. Mr. LEON ALVARADO (International Association against Torture) said that it was of the utmost importance to ascertain whether Governments benefiting from advisory services in the field of human rights under United Nations programmes were actually making a genuine effort to improve their human rights records. The last two Guatemalan Governments had been given the benefit of the doubt in that regard, and the Commission had decided to make advisory services available to them. Yet all manner of gross and systematic violations of human rights continued in Guatemala. A full catalogue of them was to be found in chapter III of the report by the independent Expert, Mr. Tomuschat (E/CN.4/1992/5). Had that report and the appeals of the Guatemalan people been heeded, there would have been no need to discuss the question of which agenda item was the most appropriate for the situation in Guatemala: the situation was now so serious as to warrant, not only consideration under agenda item 12 (c), but also the imposition of political, economic and other sanctions of the sort applied to Governments guilty of far less serious human rights violations than those committed in Guatemala.

96. In practice, there had been no improvement. The purely formal measures taken by the Government, whose President, Serrano Elías, had been a member of the Council of State during the bloody Ríos Montt dictatorship, did not address the problem. Reports by national and international human rights organizations showed that 1991 had been the country's worst year on record as far as human rights were concerned. Yet the Commission had not heeded the appeals of the Guatemalan people, preferring to lend its support to a Government that massacred its own people in the name of democracy. Advisory services in the field of human rights should be made available to Governments that were able to demonstrate concrete improvements in their human rights record. In the case of Guatemala, advisory services had instead been used to promote disinformation and conceal the seriousness of the situation.

97. The driving force behind the moves to ensure that Guatemala was not included under agenda item 12 (c) was the Government itself. The Commission should not allow a Government that violated human rights to dictate how its case was to be treated. His organization warmly welcomed the recommendation by the Experts on Haiti and Equatorial Guinea that special rapporteurs should be appointed for those countries, and contended that a comparable situation obtained in Guatemala.

98. As a Guatemalan directly affected by the human rights violations, he wished to thank those Governments, human rights bodies and non-governmental organizations that had supported the Guatemalan people over the years, and called upon Governments that had actively defended and supported the

Guatemalan Government to shoulder their share of the responsibility for any human rights violations in the future. It was deplorable that account had not been taken of the report by the Expert and of the reports emanating from Guatemala when a decision was taken on the question of Guatemala. In that regard, an inquiry should be made into the reasons why some information from non-governmental organizations was being withheld. It was to be hoped that, at the next session, the Commission would ackowledge the social cost in human lives resulting from the provision of advisory services to a Government and an army that had given no practical demonstration of the will to respect human rights.

99. Ms. de ANAYA (Commission for the Defence of Human Rights in Central America (CODEHUCA)) said that the increased use made of advisory services, noted in document E/CN.4/1992/49, would be a wholly positive development if it could be seen to be leading to a real improvement in respect for human rights in all countries. Unfortunately, that was not the case. There was thus a need to analyse the extent to which the advisory services provided were compatible with the objectives for which they had been instituted.

100. The role of advisory services was not to replace United Nations monitoring mechanisms, but to complement them. The ambiguous terms of reference of some advisory services placed them in a no-man's-land between advisory services and monitoring activities, thereby partly invalidating both exercises. Instead of containing an account of the advisory services provided, the use to which they had been put by Governments, and their effect on human rights, most of the reports presented by experts contained an account of the human rights situation that was more appropriate to the reports presented by special rapporteurs under agenda item 12 (c).

101. Advisory services must provide Governments with real opportunities to protect and strengthen human rights, not simply with a means of improving their international image; otherwise, they might well be used as an unmerited "certificate of good conduct" and as a means of concealing the seriousness of human rights violations. That was happening in the case of Guatemala. Each year, the Commission decided to give the Guatemalan Government another chance to carry out its expressed good intentions. Yet, in view of the systematic violations of human rights in that country, as evidenced by the testimony of numerous victims at the present session and by the report of the independent Expert, Mr. Tomuschat (E/CN.4/1992/5), and in particular, of the observations made in paragraphs 139 and 140, it was hard to justify advisory services for a Government that patently lacked the will to match the United Nations own efforts in the field of human rights. The decision taken by the Commission on Guatemala invalidated the work done by the Expert, and was also detrimental to the Commission's credibility.

102. As to the attempts by some Governments to have El Salvador considered under agenda item 19 instead of item 12, the peace agreements concluded between the Government and the Frente Farabundo Martí para la Liberación Nacional (FMLN) were certainly welcome but were only a first step, since serious violations were still being committed with impunity. If the agreements were to lead to tangible results, the Special Representative had to continue his monitoring activities in El Salvador, activities that must be strengthened by the provision of advisory services, as envisaged in the agreements.

103. CODEHUCA believed that advisory services should be made available, not only to Governments, but also to victims of human rights violations. If Governments often found it difficult to comply with their international human rights obligations because of an inadequate grasp of the way the system functioned, that was still truer of national non-governmental organizations, which had infinitely fewer financial and technical resources than Governments. How many lives might have been saved if the victims had known how to exploit the mechanism at the proper time? What use was the law, if it was not understood by those it was intended to protect?

104. CODEHUCA proposed that the involvement of all of a country's human rights organizations without exception should be a requisite for granting advisory services to a Government. If it genuinely intended to use technical assistance to ensure observance of human rights, a Government would undoubtedly encourage the participation of local non-governmental organizations, which could play an important role, improving their own human rights defence services, pointing out to the Government and the advisory missions the most crucial areas of need, and contributing to the drafting of special human rights legislation. Her organization thus endorsed paragraph 10 of Commission resolution 1990/59. However, simply encouraging Governments to cooperate with non-governmental organizations was not enough: such contacts must be a prerequisite for providing advisory services.

105. Mr. GHEORGHE (International Romani Union) said that the specialized assistance provided by the United Nations advisory services had made a significant contribution to improving the human rights legislation of the new democratic States of eastern Europe. In that regard, he singled out the evaluations carried out by Mr. Voyame, the Special Rapporteur on the human rights situation in Romania. However, even in terms of legislation, including the new constitutions being prepared, it was still possible to identify shortcomings that reflected both the ambiguities of the political cultures concerned, and also reluctance to deal openly with some aspects of everyday practice in eastern European societies. Some of the new constitutions had failed to include specific provisions to combat discrimination on such grounds as race, colour, national or ethnic origin or language, or membership of particular social groups combining all or some of those elements. The eastern European countries still lacked specific laws and administrative arrangements to deal with racial discrimination, violence and prejudice, despite the scale and intensity of xenophobic and racist attitudes in those societies, a fact that the intellectual and political élites of those countries still found hard to accept. He was thinking first and foremost of the prejudice and violence encountered by Roma and Sinti groups and individuals in most eastern European countries, though Jews, Blacks, Vietnamese and Arabs were also targeted. Advisory services and technical cooperation projects addressed to eastern European countries must include specialized assistance in the fields of drafting legislation and developing activities to define and combat racial discrimination, oppose racist attitudes, and promote the human rights of persons belonging to national, ethnic and religious minorities.

106. Prejudice and discrimination against Roma and Sinti populations was, however, a Europe-wide problem, calling for solutions at the international level. Since the previous session, there had been a remarkable increase in international awareness of the situation of Roma and Sinti people and of other

groups usually lumped together under the category of "gypsies". His organization welcomed the constructive steps taken by some Governments and international governmental organizations to promote dialogue with those groups and to take positive measures to improve their social and cultural circumstances. Noteworthy among those measures were the hearings and consultation on the social and cultural problems of Roma and Sinti people organized by the European Community in Brussels in May 1991, and by the Council of Europe in Strasbourg in July 1991, with the participation of a significant number of representatives of Roma communities from both western and eastern Europe; and the repeated commitments by the CSCE participating States to recognize the particular problems of Roma people, to take effective measures to ensure that they enjoyed equality of rights with majority populations, and to encourage research into their specific problems in individual countries. Resolution 1991/21 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities had also noted, inter alia, its concern for the particular vulnerability of the Roma communities to manifestations of racism, prejudice, discrimination, intolerance and xenophobia, and the Sub-Commission had recommended that the Commission should adopt a resolution at its current session inviting States to avail themselves of advisory services for that purpose.

107. Adoption of that resolution was of great importance to his organization. Two problems would have to be addressed. First, the Commission must elaborate a coherent programme to tackle the specific problems of the Roma; and secondly, Governments of countries hosting Roma communities must be encouraged to avail themselves of advisory services with a view to solving the problems of those communities in eastern European countries. His organization would be pleased to offer information and assistance, as far as its modest resources allowed.

108. Mr. MORALES (Four Directions Council) read out a statement by Mr. Marcelo Maigua, a member of the Ecuadorian indigenous community. Mr. Maigua drew attention to the need for advisory services in the field of human rights in Ecuador, where 45 per cent of the population was of Indian extraction. Ecuador was a signatory to various international instruments that affected indigenous peoples, but on the rare occasions when those instruments were applied, they were misinterpreted so as to justify the continued marginalization of the indigenous communities. As a Quechua citizen of Ecuador, Mr. Maigua was in danger of attack or summary execution by the paramilitary gangs employed by the large landowners. The Ecuadorian authorities showed no readiness to bring those responsible to justice, and the indigenous communities were thus persecuted and denied any legal redress. They were told by the Government that any person had the right to protect his property and to maintain private guards. Yet the proper purpose of private guards was to protect property, not to attack communities or execute particular leaders, as was the case in Ecuador. Those attacks were a response to the peaceful occupation by families and communities of abandoned land that had formerly belonged to agro-industrial landowners.

109. The indigenous communities had suffered for generations from a shortage of arable land, a shortage which was now exacerbated by population growth, causing hunger and extreme poverty in almost all provinces. The 1973 Agrarian Reform Act had guaranteed them the right to apply for land that had fallen out

of cultivation, but in more than a hundred cases the applications had been rejected or overlooked. After waiting for many years, the communities had finally occupied the land and planted staple crops. They had subsequently been violently evicted by the private paramilitary gangs, often with assistance from the police. Many had died or been seriously wounded in the disturbances, or illegally detained by the national police. Those murdered were often the community leaders, such as Julio Cabascango, a human rights activist killed in Imbabura, on 31 March 1991. The police had tortured his cousin, José Cabascango, Human Rights Secretary of the Confederation of Indigenous Nationalities of Ecuador, in June of the same year. According to Amnesty International, the police had investigated the case but had concluded that torture had not been employed. Following attacks on communities in Chine Alto and Anga Marca, an agreement had been reached between the Government, the landowners and the indigenous communities to resolve the conflict, but one landowner was still bent on creating new paramilitary gangs.

110. Because of the economic crisis and the external debt, the Ecuadorian Government depended on the landowners for export revenues and granted them loans on advantageous terms, tax benefits, infrastructure assistance and subsidies on imported inputs. Yet when the indigenous communities asked for the same benefits, they were told that it was impossible to single out one sector for aid, since to do so would constitute racial discrimination. Ecuador had accepted the standards set forth in the International Convention on the Elimination of All Forms of Racial Discrimination, but it appeared to need guidance in the correct interpretation and application of the Convention. The indigenous community was also suffering from malnutrition for lack of arable land, and from inadequate health services and drinking water shortages, in contravention of the provisions of the International Covenant on Economic, Social and Cultural Rights. As a result, they were the main victims of the current cholera epidemic, which was threatening the very future of their indigenous culture. His organization requested that advisory services should be provided to the Ecuadorian Government to assist it properly interpreting and applying the norms of those international instruments, and of the norms set forth in Ecuador's own domestic legislation.

111. Mr. FREDERICK (Service, Peace and Justice in Latin America) said that systematic violations of human rights in a constitutional regime should be subject to a monitoring procedure by appointing a rapporteur under agenda item 12, unless the guidelines set forth by Mr. Joinet in paragraph 304 (a) and (b) of document E/CN.4/Sub.2/1991/30 were applicable, in which case the country in question should, as a minimum, be accorded advisory services to assist it in dealing with those violations.

112. No country in South America was currently in receipt of the advisory services of an expert, although several countries had requested technical assistance from the Centre for Human Rights and Colombia had benefited from a joint UNDP/Centre for Human Rights programme of technical assistance. In paragraphs 62 to 67 of his report, Mr. Joinet described the results of the programme of technical assistance to Colombia as hard to evaluate, for lack of adequate information. Nevertheless, it was clear that the human rights situation in Colombia had deteriorated over the past five years, with an average of at least ten politically motivated murders every day since 1988 - a consistent pattern of gross violations of human rights that had not been

properly addressed by the Commission. As the promulgation of the 1991 Constitution, the handing over of drugs traffickers to the authorities and the disbanding of various guerrilla groups had not been reflected in a significant improvement in the situation. The time had now come to appoint an expert to provide on-the-spot advisory services to Colombia, as a means of fostering reconciliation, and to evaluate the results of the technical assistance programme.

113. Advisory services and technical assistance should also be extended to other countries that clearly did not comply with minimum standards for protection of their citizens' rights. Bhutan, an absolute monarchy, was one country whose citizens apparently enjoyed no legal protection from human rights violations, in the absence of a written constitution and an independent judiciary. Furthermore, it had not ratified most of the international human rights instruments.

114. When, in December 1990, the people of Haiti had chosen their President in the first free elections in their history, the peoples of Latin America had held out great hopes for that country. President Aristide's proposal to move on from destitution to dignified poverty had contrasted with the usual rhetoric of promises that remained unhonoured, and had reflected Haiti's situation after decades of backwardness and dictatorship. The international community had seen legitimacy conferred on its new leader in fair elections. But that same international community was aware of the need for solidarity with Haiti as it embarked on the road to democracy. With conspicuous exceptions, however, the demands imposed had outnumbered the contributions offered. As in other countries in Latin America, Haitian democracy had paid the price for trying to pursue a path involving fuller participation by the people, in which resources would be channelled towards the eradication of poverty and its endemic effects. Latin Americans knew that the anti-democratic will of the most bloodthirsty dictator was not sufficient to overthrow a Government elected by a substantial majority.

115. Many actions by States had isolated that new Government and had fostered the coup d'état of 30 September 1991. The widespread rejection of the coup had, fortunately, been reflected in actions by the international community in support of legality in Haiti. Father Aristide's address to the Commission, in his capacity as President of his country, was an acknowledgement of the legitimacy of his investiture. That acknowledgement, however, was not enough. The United Nations, countries and Governments that had supported democracy in Haiti must now speak out resolutely in favour of sovereignty, freedom and the right of its people to leave poverty, illiteracy and oppression behind.

116. Mr. EYA-NCHAMA (International Movement for Fraternal Union among Races and Peoples) said that the report by Mr. Volio Jiménez (E/CN.4/1992/51) showed that violations of human rights in Equatorial Guinea were constant and systematic. The Government of Silvestre Siale was a dictatorial Government; the State governed by Obiang Nguema was an authoritarian State. The sole objectives of the dictators were to keep a hold on power and to bequeath the country to their offspring when they died. His organization had been aware from the outset that the Government of Equatorial Guinea had requested advisory services purely to mislead the international community into believing that it was seriously interested in promoting and protecting human rights.

117. The citizens of Equatorial Guinea needed to live in a climate of political security or transparency in which they knew exactly when their leaders took, and when they left, office. They needed to know what procedure public institutions should follow if their leaders were to die in office. They needed to know what became of the taxes they paid. The citizens of Equatorial Guinea needed to live in legal security to enjoy equality before the law, a law that was binding on all citizens, rich and poor, leaders and led, men and women, young and old.

118. Unfortunately, the oligarchy that governed the country was above the law. Property registers were manipulated by the oligarchy to serve its own ends, so that domestic and foreign investment had dried up. The draft reform of the 1992 Constitution submitted for a so-called "referendum" by the de facto President on 17 November 1991 was even less democratic than its predecessor, a fact stressed by the Expert in his report. The conclusions reached in the report clearly set out a long catalogue of systematic violations of human rights in Equatorial Guinea. In 1985 the Commission had begun to treat the case of Equatorial Guinea under agenda item 19. The time had now come to consider it once again under agenda item 12, in the light of the serious deterioration in the human rights situation to which the Expert had drawn attention. The Commission must appoint a Special Rapporteur with a mandate to carry out a thorough investigation of those violations.

119. Ms. FAUCHERE (World Confederation of Labour) said that there was a sharp contrast between the warm welcome accorded by the Commission to President Aristide of Haiti earlier in the session and the fact that on 29 December 1991 a 10-year-old child had been arrested in Haiti for the crime of looking at a poster of the deposed President. The report by the independent Expert (E/CN.4/1992/50) drew attention to the terror that had reigned in Haiti since the coup d'état in September 1991. Murders, disappearances, abductions, arbitrary arrests, summary executions and offences against property continued. Meanwhile, media censorship had been imposed, and only 3 out of Haiti's 31 radio stations now dared to broadcast accurate information on the situation. Journalists, trade unionists and representatives of popular organizations had had to go underground, and their activities had come to a standstill. The military rulers had no intention of conceding one iota of power to the people.

120. Her organization endorsed the recommendations made by the Expert in paragraph 175 of his report and expressed the hope that the Commission and the United Nations would respond positively to President Aristide's appeal. It also asked the States concerned to suspend their decisions forcibly to return Haitian refugees until the current crisis had ended; and further requested the Commission to appoint a special rapporteur to monitor the human rights situation in Haiti.

121. In Equatorial Guinea too, the situation had seriously deteriorated. Her organization had several times testified to the Commission about violations of the fundamental rights of workers in that country, including the right to form trade unions, which was still not recognized. The conclusions in the report by the independent Expert (E/CN.4/1992/51) also drew attention to the absence of freedom of opinion and expression, freedom of the press, freedom of peaceful assembly and association, and to the fact that there was no

separation of powers. In 1991, the President had led people to believe that the wind of change was blowing in Equatorial Guinea, by promising a new Constitution. Opponents of the regime had revealed themselves and spoken out, whereupon the President had shown his true colours: the opponents had been arrested and the new Constitution had proved to be less democratic than its predecessor. The long struggle of the people of Equatorial Guinea to achieve respect for human rights and democracy had for many years been stifled by the East-West conflict. With the recent change in geopolitical realities, the time had come for the international community to support human rights activists in their fight to establish the rule of law in Equatorial Guinea. The independent Expert's mandate should be renewed.

122. Lastly, one disquieting aspect of the technical cooperation accorded to Equatorial Guinea was that, as the report revealed, Moroccan soldiers were policing the country; Moroccan soldiers were preventing freedom of movement; Moroccan soldiers were helping the authorities to imprison and torture the population; and those same Moroccan soldiers were executing opponents of the regime. One's impression was that Morocco had replaced Spain as the colonial Power in Africa. Morocco had already occupied one former Spanish colony; it was now in the process of occupying another.

123. Mr. SENE (Senegal) said that, despite its denunciation of the innumerable serious violations of human rights in Haiti since the September 1991 coup d'état, and its enumeration of the many efforts made by President Aristide's Government to bring about reform, the report of the independent Expert on the human rights situation in Haiti (E/CN.4/1992/50) had nevertheless been critical of some aspects of President Aristide's style of government. For his own part, President Aristide had called for the application of the laws and rules of justice, denouncing the corruption of the army's allies. Clearly, in Haiti as elsewhere, democracy could not be imposed by decree. It was not the rule of the largest number, but rather, the rule of law, that was at issue. Experience showed that democracy could only be applied to those societies that were ready to receive it, and that it could not be imposed from outside, since democracy required a modicum of social organization and cohesion, education and training, progress in material well-being, the smooth functioning of political parties, respect for fundamental freedoms, and, above all, economic development.

124. Yet effects should not be confused with causes. Poverty, social tensions and inequalities could only nurture obscurantism, authoritarianism, xenophobia, racism and all manner of extremist attitudes. With the end of the cold war and the new wind of freedom sweeping the world, the time was ripe for the United Nations to promote the process of democratization and to guide political regimes in directions more compatible with the Universal Declaration of Human Rights.

125. Haiti, under the leadership of Toussaint L'Ouverture, had fought a 13-year war of liberation before proclaiming the first black republic in 1804. That unexpected conquest of dignity and brotherhood, inspired by the ideas of the age of enlightenment and by the American and French Revolutions, had been a dangerous and costly gamble at the time, a high price to pay for freedom. Subsequently, Haiti had gone on to support Simón Bolivar's struggle to liberate the peoples of Latin America, providing him with substantial

military support. For a long time, however, Haiti had suffered isolation, persecution and oppression at the hands of its dictators, with the result that the Haitian diaspora now accounted for more than a million persons, out of a total population of 6.5 million. Latterly, Senegal had welcomed a number of Haitian intellectuals in exile, who had returned to Haiti when the democratic process got under way. Yet, like Ethiopia, Haiti had been a founder member of the League of Nations and of the United Nations.

126. Hence, as it celebrated the Five hundredth Anniversary of the discovery of America by Christopher Colombus, the world must also commemorate the Negro Slave trade that had persisted for four centuries, of which the people of Haiti bore the stigmata, and to whose victims Pope John Paul II had paid tribute when visiting Ile de Gorée during his recent African tour. The Pope's words of compassion spoken on that occassion only served to underscore the importance of according the utmost attention to the current situation in Haiti, and of mobilizing international efforts to secure the re-establishment of a constitutional government. The widespread condemnation of the coup by a number of international bodies and non-governmental organizations was encouraging evidence of solidarity with the people of Haiti.

127. Whatever form the solution took, it must be a peaceful solution. His delegation thus attached great importance to the current negotiations. Of course, any lasting solution in Haiti necessarily involved progress in economic and social development and a reduction in the unacceptably high illiteracy and unemployment rates. Programmes of advisory services and technical assistance in the field of human rights must be aimed at promoting knowledge and understanding of international standards and the application of human rights conventions and instruments. The Centre for Human Rights thus had a crucial role to play in providing information, education, training and documentation to back up national institutions and infrastructures and regional commissions. Needless to say, such international cooperation required mutual respect, transparency and coordination among the partners.

128. The structures and working methods for management of the advisory services and voluntary contributions must be flexible and effective, while taking into account the interests of the populations concerned. Bilateral cooperation and active participation by non-governmental organizations also had their place, alongside monitoring mechanisms and recourse to the services of Experts. If long-term objectives were to be attained, considerable financial, human and technical resources would be needed to assist States in that crucial phase of securing democracy, respect for fundamental freedoms and the rule of law, and relaunching development objectives with a view to building a world in which peace and justice prevailed.

129. Ms. PARKER (International Educational Development) said that advisory services were intended to provide assistance to States that showed a meaningful intention to improve observance of human rights or, in spite of a good human rights record, sought guidance on specific questions. The Commission should thus take special care to ensure that such services were not provided to countries under a military dictatorship or where the military exercised undue control. To provide them was to provide political protection to illegal or undemocratic regimes, as well as to undermine basic principles of human rights.

130. It was equally unacceptable to provide advisory services to a country that was in a state of civil war. Article 1 of the 1949 Geneva Conventions imposed a duty on all signatories to ensure respect for the Conventions in all circumstances. In its 1986 decision in Military and paramilitary activities, the International Court of Justice had clearly established the universality of article 1 of the Conventions, ruling that all States, even if not directly involved in the conflict, had a duty. Her organization accordingly concluded that the duty remained applicable when the international community acted in concert with regard to a situation in which a war was raging. The Commission had thus acted wisely in maintaining strict scrutiny of El Salvador during the civil war, in spite of the election of a civilian Government. However, it had failed to comply with the duty indicated by the International Court of Justice, in reducing its scrutiny of Guatemala. Perhaps the absence of the Guatemalan delegation in the course of most of the debate was a measure of its intention to improve human rights.

131. In practical terms, the Commission's failure to maintain strict scrutiny of a country at war meant that the item 19 procedure became a diplomatic substitute for a procedure under item 12. She sympathized with the intention to extend diplomatic courtesy to President Cerezo, who had been elected after many years of repressive military rule, but such courtesy should not be maintained when, following the election of a new president, Guatemala's human rights situation clearly remained one of the worst in the world.

132. Her organization welcomed the references by the Expert, in paragraphs 50 to 72 of his report (E/CN.4/1992/5), to the human rights abuses stemming from the armed conflict, acts that were serious violations of the Geneva Conventions and should therefore be most vigorously condemned, not glossed over with diplomatic niceties. The duty imposed upon signatories of the Geneva Conventions to seek out and find alleged violators of the Conventions was an affirmative duty, recalling the judgement of the Inter-American Court of Human Rights in the Velásquez Rodríguez case cited by the representative of the Netherlands in his statement under agenda item 12. Furthermore, in its decision of 29 July 1988, the Inter-American Court had affirmed that signatories to the Geneva Conventions had a legal duty to carry out a serious investigation, to identify those responsible for the violations, to impose the appropriate punishment, and to ensure adequate compensation for the victims.

133. Criticizing some acts carried out by the revolutionary forces in paragraph 206 of his report, the Expert had stated that in no circumstances should infrastructure such as bridges or electric power lines be destroyed. International Educational Development knew of no rule of humanitarian law that prohibited the targeting of such infrastructure. The Additional Protocols I and II of 1977 forbade the targeting of facilities that would unleash harmful forces on the civilian population, but did not remove bridges and electrical power plants from the category of legitimate targets. IED believed that all humanitarian law should be applied correctly and equally to all combatant forces. The people of Iraq and Kuwait would undoubtedly have a legitimate claim against the armed forces of the United States of America if destruction of bridges and electrical power facilities had been prohibited under humanitarian laws.

134. One area in which advisory services could play a useful and innovative role concerned violations that had taken place long ago. The issue of Korean "comfort women" and other long-unresolved violations had been raised by her organization and by War Amputations of Canada under other agenda items. Those and similar cases could be addressed through advisory services.

135. In view of recent events, it was no longer appropriate to consider the human rights situation in Haiti under agenda item 19 and she also hoped that any review of Haiti would address the plight of Haitian refugees abducted by the United States authorities on the high seas and sent back to Haiti in clear violation of international law.

136. Mr. ARTUCIO (International Commission of Jurists (ICJ)) said that the perpetrators of the coup d'état on 30 September 1991 that had deposed President Aristide of Haiti had sought to justify their actions by accusing the Aristide Government of human rights abuses. ICJ conceded that acts of violence had undoubtedly been committed against former Tontons Macoutes and lawyers who had defended those accused of repression and of seeking to overthrow the democratic Government, but contended that in no case could the deposed Government be held responsible for those acts. The new regime imposed by General Cedras already had a lamentable record of summary executions, terrorist murders, disappearances, arbitrary arrests, looting, torture and suppression of civil and political rights, resulting in an exodus of tens of thousands of "boat people". The State repression apparatus of the Duvalier years had been resurrected, with all the corruption and intimidation that implied.

137. Haiti was a true test of the application of democracy in the region, and a challenge to the inter-American and world communities. Governments of the Organization of American States had committed themselves to ensuring that in no circumstances would a new dictatorship be installed in the continent. His organization firmly supported the declaration adopted in Cartagena by the President of the Member States of the Rio Group, on 2 December 1991, calling for maintenance of the measures adopted until such time as President Aristide was restored to office. The approach proposed by the Organization of American States was the right way forward. ICJ called upon the Commission to take measures to maximize monitoring of the human rights situation in Haiti, by appointing a special rapporteur, as recommended by the Expert in paragraph 175 (f) of his report (E/CN.4/1992/50), and as advocated by President Aristide himself. It also called upon the Commission to declare that a return to democracy was the only road the people of Haiti could take to achieve peace, stability and development in a climate of social justice.

138. He also welcomed the progress made in establishing a dialogue between the Government and the UNRG with a view to achieving peace in Guatemala. Unfortunately, however, the toll of victims and destruction in the armed conflict continued to mount, and human rights violations by members of the armed forces and civilian patrols (PACs) showed no signs of halting. Attention was drawn to the latter phenomenon in paragraph 193 of the report by the Expert (E/CN.4/1992/5). A solution to the conflict in Guatemala must be achieved through negotiation, if possible in the course of 1992. The Commission should step up its monitoring of the situation in Guatemala and call upon both parties to continue the negotiations with a view to achieving the widest possible agreements.

139. The case of Equatorial Guinea had been before the Commission since 1980, yet no significant progress had been made. At the end of 1991, under the auspices of the Government of Spain, the possibility had emerged of a dialogue between the Government and members of the exiled opposition. Those hopes had been dashed by the recent news that a number of political opponents had been arrested following the promulgation of the December 1991 Amnesty Act. The conclusions reached by the Expert in his report (E/CN.4/1992/51, paras. 122-124) were far from encouraging. The Commission should inform the Government of Equatorial Guinea that the path to democracy entailed political pluralism, tolerance, respect for rights, the safe return of exiles, and strengthening and training of the judiciary. The international community must at all costs avoid allowing the hopes for freedom, democracy and national progress to be frustrated yet again. Further monitoring of the situation was needed by resuming consideration of the case under item 12 of the agenda, as the people of Equatorial Guinea would wish.

140. Ms. ERAZO (World University Service) said that in 1987 the Commission had called for advisory services for Guatemala and Haiti, having concluded that human rights violations in those countries were a thing of the past. In the context of the advisory services programme, the two countries had interesting points in common. In both cases, it was assumed that the civilian Government had not only the will but also the ability to make sure that their military and police forces respected citizens' rights and freedoms. In both countries, disappearances, summary executions and torture had continued throughout the period in which advisory services were provided. Neither Government had been requested by the Commission to supply specific evidence that violations of fundamental rights and freedoms had ceased. Both cases had been considered by the Commission under an agenda item that was inappropriate, since they were countries in which there was a consistent pattern of gross violations of human rights. Lastly, both countries were ruled by armies that considered themselves above the law and not answerable to democratic institutions.

141. Various member States had expressed concern that the programme of advisory services should not be used as an alternative to the procedure under agenda item 12, so as to accommodate national and regional political interests. Full details of the human rights abuses in Guatemala were set out in the report of the Working Group contained in document E/CN.4/1992/18, in the report by the Special Rapporteur on torture (E/CN.4/1992/17), and in the report by the independent Expert on Guatemala (E/CN.4/1992/5). The cases of Edwin Esteban Rodríguez García (para. 112 of the Expert's report) and Otto Iván Rodríguez showed that seminars and courses were not an adequate response to the widespread human rights abuses in Guatemala. Such offences must be investigated and punished by an independent judiciary fulfilling its role as guarantor of fundamental rights and freedoms. The study by a group of human rights lawyers in New York which had evaluated the advisory services programme for Guatemala, recommended that the Commission should establish objective criteria for determining whether a country had shown sufficient respect for international norms to be included in the advisory services programme. Those criteria included the capacity of the ordinary courts to function independently and try members of the military and police forces responsible for human rights violations; assessment of reliable information on acts of torture committed by members of the military and police forces; and

evaluation of information from reliable sources on other violations of the right to life and security, such as disappearances and summary or arbitrary executions.

142. The leader of the University Students' Association of the University of San Carlos, Otto Vásquez Peralta, had been prevented from attending the current session of the Commission, after publicly accusing the Guatemalan armed forces of being responsible for the attack on the student headquarters and of threatening leaders of various popular organizations.

143. Extension of advisory services to countries guilty of serious human rights violations exacerbated the situation of the victims by sending Governments the wrong signals. The decision to include Haiti in the programme of advisory services had been premature, and the time had now come to consider the matter under agenda item 12. In the case of Guatemala, advisory services were being provided to a Government that violated human rights and then abandoned the victims of the violations to their fate. It was deplorable that the Guatemalan Government was ignoring the present debate. The inappropriate treatment of the case of Guatemala was a betrayal of past, present and potential victims of violations. The Commission must deal with the case of Guatemala by objective criteria, in the light of the reports and of the sectors most affected, in particular the indigenous populations and children.

144. Mr. BONABA (International Peace Bureau) said that the report by the independent Expert (E/CN.4/1992/51) presented a clear picture of the serious deterioration in the human rights situation in Equatorial Guinea, and in particular, of the absence of political freedom. Attempts by the exiled opposition platform to engage in a dialogue with the Government with a view to establishing the bases for democratization and respect for fundamental freedoms had thus far met with a negative response. Article 3 of the recently promulgated Act No. 3/1992, of 6 January, on political parties, prohibited any parties which, inter alia, had the same name as those in existence prior to 12 October 1968. The specific purpose of the restriction was to outlaw the Unión Bubi party, a party which sought to protect and preserve the social and cultural interests of the Bubi ethnic group on the island of Bioko. The new law thus ran counter to the recommendation made by the Expert in paragraph 147 of his report. The situation required particularly close examination and the Commission should thus decide to take up the case of Equatorial Guinea under item 12 of its agenda, as a means of ensuring that the situation in that country did not deteriorate still further.

145. Mr. IVINA (Conference of European Churches), speaking on behalf of the Madrid Pact for the Democratization and Self-Development of Equatorial Guinea, an opposition movement representing the majority of the political parties in exile, said that the conclusions set forth in the report by the independent Expert (E/CN.4/1992/51) fully coincided with his organization's views on the seriousness of the systematic violations of human rights in Equatorial Guinea, exemplified by the failure of President Obiang Nguema to honour the promises tc bring about democratization and dialogue that he had made publicly on the occasion of the recent visit by the President of the Government of Spain. In 13 years of dictatorship the regime had once again brought the country to its knees, socially, economically, politically and culturally, and had driven a large proportion of the population into exile.

146. His organization constituted a peaceful and orderly opposition movement, with a base both inside and outside Equatorial Guinea, fitted to oversee the transition to democracy and self-development in a context of observance of human rights. On behalf of the exiled peoples of Equatorial Guinea, he called upon the international community to bring about an end to the dictatorship. The situation in Equatorial Guinea required particularly close examination as a matter of urgency; the Commission should therefore decide to resume consideration of the case of Equatorial Guinea under item 12 of the agenda, as a way of making sure that the situation did not deteriorate still further.

147. Mr. MOCONG (World Alliance of Reformed Churches) said that his organization deplored the massive violations of human rights in Equatorial Guinea in 1991; the increase in arbitrary arrests and torture had resulted in a climate of terror. There was a peaceful and orderly opposition movement, fitted to oversee the transition to democracy and self-development in a climate of respect for human rights, with a base both inside and outside Equatorial Guinea. That opposition had a programme and was ready to negotiate. It was engaged in a dialogue with the Government of Spain and the international community.

148. In his reply to the statement by the Expert, Mr. Volio Jiménez, the Minister of State of Equatorial Guinea had dismissed the feasibility of realizing human rights in a country totally lacking in the necessary social and political infrastructures. The blame for that situation could be laid squarely at the door of the President Obiang Nguema's Government, of which the Minister of State was himself a member. That Government had had 13 years to establish the bases for respect for human rights and democracy. It had also had the support of the Commission in the form of the plan of action. Yet the situation was worse than before and the Expert was right to affirm that there had been a return to dictatorship in Equatorial Guinea.

149. While freedom was regarded as a stick to beat people with, rather than as a right to be accorded even to one's opponents, and until such time as freedom under the rule of law was generally accepted, freedom would be a travesty in Equatorial Guinea. True freedom presupposed serious laws, independent judges and responsible officials. Above all, it presupposed proven statesmen who recognized the place of a free and efficient State in a civilized society, and it called for rectitude on the part of politicians. Any movement designed to secure democratization must exercise caution with regard both to the present and to the future. It must not take as its starting point the mistaken idea that a country was a private estate or a slate that only needed to be wiped clean for the word freedom to be writ large. A society was the complex product of its geography, history and economic structure, a complex system of institutions. Promotion of respect for human rights required both resources and political will. While it was for the international community to provide the necessary resources, the political will could be provided only by the Government. And, while the Centre for Human Rights was indeed providing resources, the Government of Equatorial Guinea had shown that it totally lacked the political will to promote respect for human rights. The situation in Equatorial Guinea was so serious that the time had now come to resume consideration of the case under agenda item 12.

150. Mr. GONZALES (International Indian Treaty Council), welcoming the Secretary-General's efforts to provide advisory services in the field of human rights to Governments that had requested them, said that 1993 might provide a good opportunity to hold a seminar, with worldwide participation, on the rights of indigenous peoples.

151. At its thirteenth international conference, held in Alaska in July 1991, his organization had focused, inter alia, on the human rights situation in Guatemala and had adopted a resolution declaring its solidarity with the Indian peoples, and with all victims of repression in that country. At its previous session, the Commission had deferred a decision on the question of the most appropriate agenda item for considering the case of Guatemala. In resolution 1991/5, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had requested the Expert to accord particular attention to the situation of the indigenous peoples.

152. From a careful reading of the reports before the Commission, including the report by the independent Expert, Mr. Tomuschat (E/CN.4/1992/5), one was entitled to ask whether there was a single universally recognized right or fundamental freedom set forth in international law that had not been violated in Guatemala. Not one article of the Universal Declaration of Human Rights was fully respected. The so-called "improvements" in the situation were no more than promises: promises that the Commission had been hearing since 1979. Human rights defence organizations reported that in 1991, summary executions had totalled 735, while 40 persons had been murdered in a total of 10 massacres and 83 persons had gone missing. Most had been tortured, and some mutilated before receiving the coup de grâce, which was the hallmark of the army-controlled death squads. Death threats and intimidation of activists also extended to foreigners, some of whom had been tortured and murdered.

153. Consideration of the case of Guatemala under agenda item 19 was inconsistent with the Expert's findings, and the Indian peoples in Guatemala were being subjected to a policy of ethnocide, as defined by UNESCO's 1981 San José Declaration. The historical pattern of discrimination against indigenous populations had continued at the "San José 8 Meeting" between Ministers for Foreign Affairs of Central America and the EEC, held in Lisbon on 25 February 1992, at which the Guatemalan official delegation had refused to be present in the same building as Ms. Rigoberta Menchú, a member of the International Indian Treaty Council leadership. If that was the way indigenous populations were treated at the international level, there was no need to ask how they were treated in Guatemala, in the rural areas. They were the victims of a policy of discrimination that also affected their economic, social and cultural rights.

154. His organization had hoped that, after four years of advisory services, there would have been a real improvement in the situation of the indigenous peoples. It fully endorsed resolution B/3-1156/92, adopted by the European Parliament on 13 February 1992, a resolution that urged the United Nations Commission on Human Rights to appoint a special rapporteur to report on Guatemala under item 12 of its agenda. It was a cruel irony of history that, in the year of the fifth centenary of the so-called "discovery" of America, his organization should have to testify before the Commission in order to affirm that the Indian peoples of Guatemala were, like the other peoples of

the world, human beings, with a right to peace and to life. He trusted that the Commission would adopt a resolution consistent with the objectives for which it had been established.

ELECTION OF MEMBERS OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES (agenda item 23) (continued) (E/CN.4/1992/56 and Add.1-5)

155. The CHAIRMAN invited the members of the Commission to indicate their choice in the fourth round of the ballot.

At the invitation of the Chairman, Mrs. Galvis (Colombia), Rapporteur, acted as teller.

A vote was taken by secret ballot.

Number of ballot papers:	51
Invalid ballots:	2
Number of valid ballots:	49
Abstentions:	2
Required majority:	26
Number of votes obtained:	
Mr. Biró	16
Ms. Michalska	16
Mr. Boutkevitch	15

156. The CHAIRMAN said that, since no candidate had secured the required majority, a fifth vote would be taken at the Commission's next meeting.

The meeting rose at 11.55 p.m.